

KENYA
52168

52168
Recd
25 OCT 20

AF OVERSEAS
OCIATION
1920
OCTOBER
Previous Paper.
2131

POSITION OF INDIANS

Submits observations re land acquisition and segregation.

Sir H. Read,
know from Colonel Abbot
We ~~have~~ ^{are} under consideration another paper, that the Government of India are about to send a despatch on this East African Indian question, and, although their despatch will apparently relate primarily to the question of land, it will probably deal with other questions also in view of the reference to the Viceroy's speech made on page 20 of this letter:

This being the case, I venture to think that we should not attempt to reply exhaustively to these two letters from the Indian Overseas Association until we receive the Indian despatch. The letters are based on a very liberal construction of our invitation on 38730 for their views on any matters which are still open to consideration, and it would hardly be possible to reply to them without saying that some of the points raised must be regarded as not open for consideration. We can hardly do that with the possibility of having to give very full consideration to the views of the Government of India on the same points.

I should prefer, therefore, to answer these letters by simply acknowledging receipt and promising

Subsequent Paper.

another paper goes through it will, at all events, be possible to give an immediate and satisfactory reply to the points raised in the last paragraph of page 10 of 51063 as to ^{private} practice by Indian Assistant Surgeons after leaving the Government service.

I have attached to each of these two papers short notes on the various points raised.

W. G. A.

30/10/20

H. J. R.

30/10/20

In your letter

52169/20

934
Land: This question must definitely be regarded as closed by the Secretary of State's despatch, and the Association should be told so.

^{Segregation}
Irrigation: Here again the position is hardly open to review on the general question, unless the repeated advice of the Secretary of State's Medical and Sanitary Advisers is to be thrown over.

As regards paragraph 5, I am not in a position to say how far it has been decided to apply the principle of town irrigation in Tanganyika, or whether it has since the date of the House of Lords' debate been abandoned, equally with the original intention to have in Tanganyika an arrangement corresponding to the reserve in Kenya ^{also} and the Highland area for European settlers.

As regards paragraph 6, ^{its} suggestion—that when in 1910 the Crown Advocate replied "there is no township in the Protectorate from which Indians are prohibited from ^{acquiring} ~~obtaining~~ land", it was naturally taken to mean that there was no land in any township in the Protectorate that Indians were not free to purchase if they wished—~~is~~ seems much too far fetched.

As regards Professor Simpson's report, that is, and always has been, confidential, and a sufficient reason for this is that it would otherwise have been the cause of unlimited land speculation in the townships. [When it was received we had for some months been engaged in buying as ^{quickly} ~~gradually~~ as possible as much of the land on Mombasa Island as the Government could afford.]

W. G. A. 30/10/20

to H. R. [unclear]

reply that we would acknowledge
 letters and promised to further advise
 it we will take care to send a copy
 not further letter to J. O. in the course
 things are being up (as) for reason of
 + own matter + towards the E. [unclear]
 many [unclear] + [unclear] [unclear]
 on Friday with Professor [unclear]
 (6) for the receipt of the Indian [unclear]
 general protest. But I do not think
 that we should say anything to J. O. which
 would imply that we would [unclear] to do
 nothing till we get the Indian [unclear]
 I would let the letters to be [unclear]
 [unclear] as suggested above.]

Oct 17/1880

R (E. N.)

I have replied accordingly.
 attached - to papers at [unclear]

15 Nov 20

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is in my

hand

Indians Overseas Association.

337

52168

47-48 Danes Inn House,

265 Strand, London, W.C.2.

REC.
 Rec^d 23 OCT 20

October 16th,

1920

The Under Secretary of State,
 Colonial Office,
 S.W.1.

Sir,

In continuation of my Association's letter of the 14th instant, I am now desired to address you on the subject of Land Acquisition and Segregation, in so far as these questions affect His Majesty's Indian subjects in East Africa.

2. My Association notes, in the first place, that Lord Milner adopts Lord Elgin's decision to maintain, by administrative though not by Legislative means, the restriction on the acquisition by Indians of agricultural land in the Highlands of the Kenia Colony. Lord Elgin, however, based his decision upon reasons of administrative convenience. It is noteworthy that Lord Milner surrenders the argument of "administrative convenience", which, in fact, was meaningless, vague, and irrelevant, in favour of a new theory which arbitrarily divides the Colony into areas in which alone Europeans can live, and those from which Europeans are by nature excluded. It is now alleged that it would be a virtual discrimination in favour of Asiatics against

European settlement to permit Indians to acquire land in the former areas.

3. In my Association's respectful opinion, Lord Alford has been seriously misled on this subject. In the first place, it knows from experience that there are very few areas of the earth's surface from which, by nature, Europeans are excluded, when the precautions and methods of modern science are adopted and the amenities of modern civilisation are introduced, and when the attraction, as in the case of the discovery of precious stones and metals, is sufficiently great. Secondly, His Lordship's argument, though it may appear to be valid as against the occupation of lands in these "European" areas by Indians, has no application whatever to their acquisition and ownership by Indians, for clearly, whilst "Health" and "residence" may be connected ideas, "health" and "ownership" have no necessary connection. Thirdly, in practice, it is not the Highlands alone that have been reserved for European settlers. To some extent there was a certain consolation to the Indian population in the belief that, by way of compensation, the disposable land in the Lowlands would be reserved for their acquisition, and for some time this

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belief was fostered by the Administration. But it soon became apparent that the European settlers were not going to be content with the areas set aside from them in the Highlands and large parcels of agricultural land were disposed of by the Administration to them in the Lowlands, of which they subsequently sold considerable portions at a good profit to Indian purchasers. Side by side with this is to be put the fact that, as my Association is reliably informed, no larger areas than 50 acres at a time have been sold by the Administration to Indians even in areas which are officially considered to be such as, by nature, Indians are specially fitted to occupy and from which, by nature, Europeans are excluded. Fourthly, Lord Milner proceeds to remark that to permit Indians to acquire land in the Highlands would be "taking the Protectorate as a whole, a virtual discrimination in favour of Asiatic as against European settlement". In my Association's respectful opinion, just the opposite is implied by His Lordship's decision, assuming the correctness of the official theory based upon "natural disability". It has already been shown that Indian ownership of land and European settlement upon it have no necessary connection, either

as regards fostering or inhibiting its development and thereby the prosperity of the Colony "as a whole". The doctrine now advanced seems to amount to this: "Indians and Europeans alike can live and prosper in the Highlands. Indians alone can live and prosper in the Lowlands. Therefore, in the interests of and in fairness to the Europeans, Indians should not be permitted to acquire land in the Highlands". But the fallacy of the argument appears to my Association to lie in the fact that, in reality, it means that Indians are to be deprived of a right which, it is admitted, they are "by nature" able and anxious to exercise, whilst, in proposing to set aside similar areas in the Lowlands for exclusive Indian settlement, Europeans are to be deprived of a right which, it is alleged, they are "by nature" unable (and, therefore, not eager) to exercise. Reduced, thus, to its right proportions, Lord Milner's decision amounts to a virtual discrimination in favour of European, as against Asiatic, settlement, which, indeed, has been a grievance of long standing with the Indian community. And additional force is lent to it by the tacit admission by Lord Milner, in recommending the selection of suitable areas for exclusive Indian settlement as a counterpoise to the reservation of the Highlands for

exclusive European settlement, that no such "equivalent" has hitherto, in the many years during which his grievance has been brought to the notice of His Majesty's Government, been offered the Indian community. I have only to add that my Association is strongly of opinion that Lord Milner's present proposals are inadequate, impracticable, unsuitable, and unacceptable as a remedy of the Indian grievance in this matter. I am to recall to His Lordship the arguments in favour of a reversal of the present policy, contained in paragraphs 9, 11 and 12 of my Association's letter of August 5. Public opinion, too, in India is unanimously opposed to the policy once more reaffirmed by His Lordship, and persistence in it can only, in my Association's view, aggravate an already difficult and even dangerous situation.

4. If, however, there is so little to be said in support of the decision regarding the disposal of Crown lands in agricultural areas, there is still less to be said, my Association ventures to submit, in favour of Lord Milner's sanction to the policy of racial segregation in urban areas. My Association's views on this subject were, in some degree, communicated to his Lordship in paragraphs 8, 10, 11 and 12 of my letter of August 5.

I am to add the following.

5. It would appear, from Lord Milner's statement in the House of Lords, in July last, that it is the intention of the Colonial Office to extend this policy to neighbouring British territories and, so far as possible, to the territory to be administered under Mandate in Tanganyika. If this be so, it would seem that His Lordship intends not only to enforce a policy in Kenya (and to extend it to neighbouring British territories where at present it is non-existent) which finds no counterpart, so far as my Association is aware, anywhere in His Majesty's Dominions save in some parts of the Union of South Africa - a notorious exponent of reactionary racialism - but to apply it also to a territory to be administered under the League of Nations whose Mandate it is legitimate to presume, does not contemplate a racial differentiation of this character. My Association is reliably assured that, so far as the Tanganyika Territory is concerned, the introduction of segregation will involve the adoption of a new principle and the reversal of the German practice, and it ventures to remark that, in this respect, at least, a comparison between British and German methods of administration is not favourable to the former. It is disconcerting in the highest degree to learn that His Majesty's Government are now made to appear to

adopt enforce and justify a policy that they have so often and so energetically protested against when enforced by the authorities in South Africa, both before and after the Boer War.

6. On May 25 last, the Nairobi Indian Association, in a communication to the Acting Administrator of the then East Africa Protectorate on the subject of the proposed sale of business plots in Nairobi, recalled that, in 1910, upon the representations of (as he then was) the Honourable Mr. A. M. Jeevanjee, who complained that Indians were debarred from acquiring town properties on the ground of race and colour, the Colonial Office disclaimed all knowledge and promised to do justice to the Indian settlers. In the Legislative Council session held in November, 1910, the Hon. Mr. Newland asked : -

"May the Council be informed as to what townships, if any, have been laid out in the Protectorate, in which Indians may not acquire land, it being reported in the "Daily Chronicle" of 1st September that the Honourable Mr. Jeevanjee alleged that Indians are debarred from acquiring town properties in the Protectorate?"

The Crown Advocate replied :-

"There is no township in the Protectorate in which Indians are prohibited from acquiring land".

It was generally understood by the Indian population that this statement by the Administration spokesman indicated that, upon pressure from the Colonial Office, the Protectorate Government had reversed its urban land policy, and that there was no land in any township in the Protectorate that Indians were not free to purchase if they wished. Not unnaturally, in the words of the letter of the Nairobi Indian Association, "the declaration of the policy of the Protectorate Government contained in the reply of the Hon. the Crown Advocate was received by the Indian community not only with feelings of satisfaction and gratitude, but the statement was considered as securing the future rights of unrestricted ownership of land by the Indians of the Protectorate".

7. It was further recalled that, during the War, at a time that Martial Law prevailed in the Protectorate, when, owing to military surveillance, the political activities of the Indian community were paralysed; when, too, they were entirely unrepresented in the Legislative Council and were thus deprived of every means of manifesting their disapproval and voicing their protest, the Land Ordinance was passed and applied, which gave the Governor of the Protectorate power to veto certain land transactions between various races and to reserve certain areas for certain races. This measure was a clear violation of the under-

taking given by the Colonial Office in 1910 and a striking departure from the statement of policy made by the Crown Advocate in that year.

8. It is evident that the Band ordinance is a direct consequence of the Report by Professor W.F. Simpson made to the Colonial Office on July 2, 1914, after a visit to East Africa. "Sanitary" grounds have been given as the reason for the policy of racial segregation advocated by Professor Simpson in his report, and it is noteworthy that, in his speech in the House of Lords, Lord Milner laid great emphasis upon this report, from which he quoted selected paragraphs. It is, nevertheless, clear from the report itself, and from the circumstances in which Professor Simpson made his inquiries, that it was not, at bottom, on "sanitary" grounds that he made his recommendations. My Association is credibly informed that he had hardly any conversations with the Indian residents of Nairobi - the bad conditions of which town, resulting from the negligence of the Administration in which Indians had no part, formed the main burden of his criticism - and that he derived his information almost solely from Europeans, officials and non-officials, who had very different objects in view from those of municipal cleanliness. For a long time previously a definite campaign had been developed

to make of Nairobi a European town, the headquarters of a European Administration, in a European district, and Professor Simpson appears to have been successfully indoctrinated with this idea. At one place in his report, he makes his real meaning plain beyond misunderstanding. He says explicitly :- "Unless measures of this kind (segregation) be taken for Nairobi, it will lose the opportunity of becoming mainly a European town, which, the centre of a European District, and as the capital of the country, it by right and destiny ought to possess" In other words the "sanitation" plea was only a means to an end. It has nothing whatever to do with the real purpose of Professor Simpson and his European mentors. He had already accepted the European point of view and he now enunciated it in the guise of a "sanitary" report. He wrote, in fact, an elaborate political pamphlet, from which it is quite clear that he was extremely ignorant of Indian habits, customs, and tendencies, of conditions in India, and of the historic character of Indian settlement in East Africa. And it is of the utmost significance that, until this report was mentioned by Lord Milner in the debate last July, only one official reference to it had been publicly made, and no copy of it came into the hands of the Indian community until four years after it was written, when it happened to be mentioned.

by the Acting Administrator at an interview with him by a delegation of the Indian Association of Bombay. It was then urged that it had not been published and that Indians had had no opportunity to criticise it or submit their objections to it, and it was not until some time later that a copy came into the possession of the Indian community. It may be legitimately asked what purpose this secrecy was intended to serve, unless it was to conceal from the Indian population both the real reasons, and the policy based upon them, for the invidious treatment that has been meted out to them.

9. Professor C.F. Andrews, who, at the instance of the Imperial Indian Citizenship Association of Bombay, paid a visit recently to East Africa and made a thorough investigation in localities in provides an illuminating commentary upon Professor Simpson's conclusions in the following extract from his report:

"I do not think that, when all the facts are finally and fully considered, the only solution of the sanitary problem will be found to consist in the complete segregation of races. I have read Professor Simpson's Sanitation Report twice over very carefully indeed. If he had taken the position purely of an expert, what he has advised would be more convincing. But his political bias is evident throughout, and he has

often written, not as a sanitarian, but as a politician. Furthermore, he appears to me to have missed out of account the very large and increasing number of Indians who are adopting their completeness modern sanitary methods. It is not segregation which will increase the number of these but close association. The 'segregation' policy., therefore, if run to the extreme, is as short-sighted as the 'exclusion' policy with regard to immigration. Both policies have got all the character of panic legislation. Both policies owe their popular support to racial dislike".

"Segregation" and "exclusion", in fact, go or stand together. The one is the obverse of a medal of which the other is the reverse. My Association need only look to the example of South Africa to see how, having secured the virtual exclusion of Asiatic Immigration, the active anti-Asiatic party is now endeavouring - even there the Dominion Government has not succeeded in doing what Lord Milner is now sanctioning in East Africa! - to secure the compulsory segregation of the Indian population in locations. He has, however, set his face against "exclusion", and my Association submits that the corollary follows that, if Indian immigration is to continue, it should be on such conditions as to residence as are calculated to preserve and encourage the

sentiment of self-respect and good citizenship on the part of the Indian immigrants and their compatriots already settled in the Colony.

10. It is evident from His Lordship's remarks that he is not quite happy in relying solely upon alleged "sanitary" requirements for the justification of his policy. He therefore brings in the argument of social amenity. My Association can only wonder what His Lordship's distinguished colleague, the present Secretary of State for War, would have to say to this extraordinary argument, when he carries his mind back to the Indian hospitality that he enjoyed in this very town of Nairobi, during his official visit to the country - his views on the Indian position, quoted in the Memorial handed to Lord Milner on April 19 last, are on record - on which occasion the only suitable accommodation that could be found for him was a property belonging to Mr. A. A. Jeevanjee. My Association may be permitted here to refer to a striking incident that occurred during the interview of the Mombasa Indian Association above referred to. At one stage of the discussion it was pointed out to the Administrator that Indians and Europeans at the Coast had lived very peacefully together whatever might be the circumstances - country, which His Excellency at once admitted. It is unfortunate that Lord Milner should now propose to extend the

policy of segregation from Nairobi, the only place where it has had any degree of popularity, throughout the Colony, the Protectorate, and to all neighbouring territories with the possible exception of Zanzibar, where the relations of Indians and Europeans are notoriously friendly. Nor is it to be supposed that the European population is anything like unanimous on this subject, though doubtless representations have been made in that sense to his Lordship. In his capacity as President of the Kisumu Chamber of Commerce, Mr. F. Colman, one of the most experienced and sanest of the European settlers, submitted the following remarks to the Annual General Meeting of the Chamber this year, when they met with general approval :-

"I will merely note what has taken place as a result of His Excellency's invitation to formulate a Chamber opinion and what the local feeling has all along been on the question. Our resolution for His Excellency, which was very carefully considered, was, to put it briefly, as follows :- That sanitation cannot be urged as a reason for excluding one race from ownership of property in an area allotted for occupation to another race. That segregation in itself means depreciation of property owing to the restriction of the market. That it is a hindrance to the normal influx and investment

of capital. Finally, that the Chamber is in favour of segregation of residential areas by consent and is of opinion that such consent could be obtained provided that there were no interference with the normal free transfer of immovable property as generally recognised until recently. I think I need say no more except that by these opinions we stand to-day".

My Association would emphasise that even on the question of segregation of residential areas, the Chamber is only prepared to advocate voluntary segregation and not the compulsory segregation that is now contemplated in the Segregation of Races Ordinance or any measure that may be designed to replace it. And it is of very great importance to note that, in spite of the alleged strong feeling in Nairobi in favour of this racial segregation, as recently as March, 1910, in reply to Mr. M. A. Desai, an elected Municipal Councillor, who asked what portions of the township had been reserved for European commercial and residential areas, and what portions for Indian commercial and residential areas, it was stated that "these have not been definitely demarcated".

11. My Association has already remarked, in previous correspondence, upon the fallacy of the "sanitation" and "Segregation" theories in commercial areas. In Nairobi, the Crown Lots that

have recently been advertised for sale by auction to Europeans only are surrounded by lots already owned and occupied by Indians and the only possible consequence of the policy now officially sanctioned will be to "freeze out" the Indian owners and occupiers. It is a matter of regret that His Lordship is personally unfamiliar with the local topography. Professor Andrews, who enjoys that advantage, has pithily summarised the position in the following passage occurring in a communication to this Association :-

"The scheme he (Professor Simpson) proposes, on sanitary grounds, is simply to give the Europeans all the centre of the town, which the Indians had a share in previously. He would bodily remove the Indians across a steep nullah with a river running through it, away from central Nairobi altogether. To give some slight analogy. Suppose Indians originally possessed all Cheapside and Ludgate Circus and the Strand, and Europeans possessed all Charing Cross and Westminster and Bloomsbury. Then Indians are bodily removed to the Elephant and Castle and Walworth, and the Europeans are given Cheapside, Ludgate Circus and the Strand, as well as Westminster and Charing Cross. To add to the Indians' difficulties, you must imagine a very deep

Creek, or nullah, between north and south of the Thames". And it is the realisation of this project that Lord Milner's decision will promote.

13. My Association has a very pleasant recollection that, in a public speech made by Lord Milner shortly before he left South Africa. His Lordship, speaking with special reference to the status of coloured people in the Transvaal, strongly urged the conferring of a white man's privileges upon such coloured people as had adopted European standards of life. In other words, His Lordship deprecated racial divisions, but emphasised the unifying character of common hygienic, sanitary and educational standards. It is therefore of interest to note that Sir Edward Northey, the present Governor of Kenya, informed a deputation from the Nairobi Indian Association that waited upon him on March 24, 1919, that his private opinion was that residential qualifications would in future be more educational and hygienic than racial, and it was generally understood that in the Public Health Bill, which is designed to replace the Segregation of Races Ordinance, hygiene, sanitation, and education were to be the tests for the division of residential and commercial areas, and not race and colour as hitherto. But Lord Milner's remarks, both in the debate and in the dispatch, seem to

show that His Lordship has finally been overborne by the racialists and that the educationists have been defeated. If this be so, my Association can only deplore a very great Imperial disaster. How great cannot yet be measured. His Lordship's decision on this question have deeply disappointed Indian hopes in East Africa and have inflamed the already embittered public opinion in India. In spite of the persuasiveness and plausibility of the official arguments in favour of segregation, Indian opinion is entirely unconvinced. Every Indian realises what is behind the segregation policy. None believes that any of His Lordship's compensatory conditions is susceptible of realisation. Throughout India, the news has been spread that once more Indian interests and rights have been betrayed to European greed, and this time not by a Dominion Government over which His Majesty's Government have no control, but by the Imperial Government themselves.

13. So moderate a newspaper as the "Leader" (Allahabad) describes the policy enunciated in Lord Milner's dispatch, as a "Betrayal of Imperial Trust". Professor Andrews, in the course of a criticism of Lord Milner's decisions appearing in the Indian press, has undoubtedly voiced the unanimous sentiment of all thoughtful Indians. He says in unambiguous language :-

"This must be made the test case - the test not merely of Indian residence in East Africa, but of India's place in the British Commonwealth. It is the test case, for this reason. If, in a Colony, where Indians were clearly and unmistakably and uncontrovertibly first in the field; if, in a Colony, which is not in the Temperate Zone, but on the Equator; if, in a Colony, which is next door, as it were, to Bombay, and thousands of miles from London. . . .; if in a Colony, which, for nearly a generation, was, at it were, administered from India indirectly, by employing Indian Law, Indian officials, Indian coinage, Indian system of Administration - if, in this Colony, Indian status is to be in anyway inferior and not equal, then the whole theory of the British Commonwealth is a mockery, a sham, and a delusion, and all the high-flown speeches during the war concerning India's equal partnership are an hypocrisy so nauseous, that it creates a disgust in the moral sense even to mention them To fail to substantiate the Indian claim here is to fail utterly".

1+. How embarrassing to the Government of India and to His Majesty's principal representative in that country have been the decisions on these and cognate questions taken by the

Secretary of State for the Colonies is manifest from the following extract taken from the Viceroy's speech at the opening of the last session of the Imperial Legislative Council :-

"The Council may feel assured that the attitude I am adopting with regard to them is the same as that defined in my speech of January last. I adhere to the position which I then took up. I do not admit that there is any justification in a Crown Colony or a Protectorate for assigning to British Indians a status in any way inferior to that of any other class of His Majesty's subjects. We have continually pressed this point of view upon the Authorities at home. . . . I have only to add that if the decision of His Majesty's Government is not favourable to Indian claims this result is not in any way due to the failure on the part of the Government of India to press the Indian point of view. I reserve further remarks on the subject and it will be a matter of serious consideration what further action the Government of India must take in order to secure the legitimate rights of Indians in Crown Colonies".

It must be apparent that the Government and people of India are wholly at one on this subject, and my Association

declines to believe that His Majesty's Government are finally committed to the decisions embodied in Lord Milner's despatch of May 21, last.

16. My Association can only hope that even at this late stage, when it is still possible to avert the danger and avoid the certain trouble and unrest that will otherwise spread throughout East Africa, His Lordship will see his way to reverse a policy that can never so long as it retains its self-respect, be accepted by the Indian population. Lord Milner has rendered unique service to the Empire by his bold proposals in regard to Egypt. My Association earnestly hopes that the same spirit of conciliation and constructiveness will be employed by him in solving the East African problem, which, in its opinion, is a European and not an Indian one.

I have the honour to be,

S I R,

Your obedient servant,

[Handwritten Signature]
Hon. Secretary.

52168/20 Kenya

17 Nov 1920

DRAFT.

Ind I am etc to ask the rect
of your letter of the 10th of

October, on the ^{many points} ~~various~~ questions
with regard to the position
of ~~land acquisition~~ ^{Indians}
~~in East Africa~~ ^{in East Africa}, and

to request you to inform the

Indians & African Associations

that a further ^{reply} ~~communication~~
~~is not to be~~

on this subject will be
addressed to them ^{a further subject} ~~in due course~~

Yours etc

MINUTE.

- Mr. Lamb of 8.11.20
- Mr. Battersby
- Mr. Grindle
- Mr. H. Lambert
- Mr. H. Read
- Mr. G. Hides
- Mr. A. Amory
- Lord Milner